

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

HAROLD ARMSTEAD JOHNSON,

Petitioner,

Case Number: 06-13405

v.

HON. JOHN CORBETT O'MEARA

MICHIGAN PAROLE BOARD,

Respondent.

ORDER OF SUMMARY DISMISSAL

Petitioner Harold Armstead Johnson has filed a *pro se* petition for mandamus. Petitioner is currently incarcerated at the Genesee County Jail awaiting disposition of charges that he violated the terms of his parole. Petitioner argues that, under Michigan law, he was entitled to unconditional discharge from his parole in 2004, and, therefore, should not have been detained pursuant to a parole violator warrant. Petitioner asks this Court to issue a writ of mandamus to the Michigan Parole Board ordering his immediate release.

“[F]ederal courts may not issue writs of mandamus to compel state officers to act in accordance with state law.” Hoffman v. Stump, 1998 WL 869972, *6 (6th Cir. Dec. 2, 1998), *citing Pennhurst State School & Hospital v. Halderman*, 465 U.S. 89 (1984). *See also Parker v. Phillips*, 27 Fed. Appx. 491, 494 (6th Cir. 2001) (“Federal courts . . . have no authority to issue a writ of mandamus directing a state court or its judicial officers in the performance of their duties.”). Therefore, this Court lacks authority to issue a writ of mandamus to compel the Michigan Parole Board to release Petitioner based upon the Parole Board’s alleged failure to comply with Michigan state law.

The Court declines to construe the petition for mandamus as seeking habeas corpus relief because Petitioner does not allege that his claims are exhausted and it does not appear that they are. The Court shall dismiss the petition for mandamus without prejudice to Petitioner's right to file a petition for habeas corpus relief.

Accordingly, **IT IS ORDERED** that the petition for mandamus is **DISMISSED**. This dismissal is without prejudice to Petitioner's right to file a habeas petition challenging his continued confinement and the calculation of his parole period.

s/John Corbett O'Meara
JOHN CORBETT O'MEARA
UNITED STATES DISTRICT JUDGE

Dated: August 22, 2006

I hereby certify that a copy of the foregoing document was mailed to the parties of record on this date, August 22, 2006, by electronic and/or ordinary mail.

s/William Barkholz
Case Manager, (734) 741-2488